

REFILED PURSUANT TO COURT ORDER (DKT. 102)

EXHIBIT B

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those MIBIScope instruments. Those customers, instead, would have purchased from among Fluidigm's proprietary CyTOF® (e.g., CyTOF®, CyTOF® 2), Helios™, and Hyperion™ mass cytometry technologies.

Fluidigm reserves its right to present expert witness reports, testimony, and opinions concerning damages issues in this action, including as to the egregiousness of IONpath's conduct and the reasonableness of Fluidigm's attorneys' fees.

II. EXEMPLARY FACTUAL SUPPORT FOR THEORIES OF RECOVERY

A. Lost Profits.

Under *Panduit*, factors to be considered in determining causation and the amount of lost profits damages include:

1. A Demand for the Patented Product.

There is a strong and growing market for mass cytometry instruments and reagents, as demonstrated by sales that have already been made by both parties, and the technology's potentially revolutionary effect on personalized cancer treatments. Fluidigm has made significant sales of its products and services that practice and utilize the inventions claimed in the Asserted Patents, namely its proprietary CyTOF®, Helios™, and Hyperion™ mass cytometry technologies, Maxpar® reagents, and Therapeutic Insights Service.

Fluidigm is widely recognized as a leader in highly multiplexed cytometry and imaging that maximizes results from precious samples with its proven CyTOF®, Helios™, and Hyperion™ instruments and Maxpar® reagents. Those instruments and reagents are widely used by leading cancer centers, academic medical centers and pharmaceutical organizations around the world, and have powered significant advancements in the understanding of the immunome.

Fluidigm has made significant sales of its own instruments and reagents, totaling about [REDACTED], supporting its recovery of lost profits from IONpath. *See* FLUIDIGM_00009218; FLUIDIGM_00011137. In addition to the total amount of revenue, which alone evidences the immense demand for Fluidigm's CyTOF®, Helios™, and Hyperion™ instruments and Maxpar® reagents, Fluidigm's [REDACTED]